

**FINAL**



## **Town of Southern Shores**

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**Planning Board Meeting**

**January 20, 2016**

**3:00 p.m., Pitts Center**

### **MEETING MINUTES**

#### **I. CALL TO ORDER:**

Chairperson Sam Williams called the meeting to order at 3:00 pm. Planning Board Members Gray Berryman, David Neal, Jay Russell, Sam Williams, and alternate member Joe McGraw were present. Planning Board member Elizabeth Morey and ETJ Representative John Finelli were absent with excuse.

#### **II. PLEDGE OF ALLEGIANCE:**

Chairperson Sam Williams led the Pledge of Allegiance.

#### **III. APPROVAL OF AGENDA:**

Jay Russell motioned to approve the agenda. Gray Berryman seconded the motion. The motion passed unanimously (5-0).

#### **IV. APPROVAL OF MINUTES:**

Joe McGraw motioned to approve the minutes of the December 21, 2015 Planning Board Meeting. Gray Berryman seconded the motion. The motion passed unanimously.

#### **V. PUBLIC COMMENT:**

None.

#### **VI. OLD BUSINESS:**

None.

#### **VII. NEW BUSINESS:**

##### **A. ZTA-16-01: Off-street Parking Requirements**

Chairperson Williams introduced the application and called on Wes Haskett to present the Staff Report (see attached). He then called on the applicant's representative, Michael Strader, Jr., P.E., Quible and Associates, P.C. to present the application. The application consists of multiple proposed changes to the current parking requirements which can be treated as separate requests if the Board wishes. The applicant, Southern Shores Crossing LLC, wants to work with the Town to address the proposed changes. Southern Shores Crossing was built according to the parking requirements at the time of construction and now they are unable to provide enough spaces for the four remaining vacant units which is between 38 and 40 spaces.

Wes Haskett stated that at the time of construction, Southern Shores Crossing consisted of retail spaces and one restaurant and currently, there are three restaurants and retail or office spaces. Restaurants require more parking spaces than other uses.

The Board discussed the proposed reduction in parking width from 10 feet to 9 feet, spaces for compact cars only and increasing the proposed one parking space for each 200 sq. ft. of floor area to one parking space for each 300 sq. ft. of floor area.

#### PUBLIC COMMENT

Debbie Newberry stated that she was against making parking spaces too small, a percentage of parking area could be dedicated to smaller spaces, restaurants when full will take up a lot of parking spaces, and encouraged the use of pervious materials.

Chairperson Williams closed Public Comment.

The Board continued its discussion and agreed that the required parking space width should stay at 10 feet.

Chairperson Williams proposed allowing parking area for motorcycles instead of compact cars and the Board agreed to leave the compact car language as proposed with the exception of providing signs that mark the spaces for compact cars only and reducing the percentage of allowed compact spaces from 20% of the total number of provided spaces to 6%.

Wes Haskett recommended to the Board that commercial shopping center should be replaced with group development regarding compact cars on page 3 of the proposed ZTA. The Board agreed.

The Board continued its discussion on increasing the proposed one parking space for each 200 sq. ft. of floor area to one parking space for each 300 sq. ft. of floor area and agreed to increase the requirement to 300 sq. ft.

The Board discussed the use of bicycle racks and agreed that bicycle racks should hold at least 4 bicycles.

Gray Berryman motioned to recommend approval of the proposed ZTA to the Town Council as amended. Jay Russell seconded the motion. The motion passed unanimously.

#### B. ZTA-16-02: Large Structures With Maximum Occupancy of 14

Chairperson Williams introduced the application and called on Wes Haskett to present the Staff Report (see attached).

#### PUBLIC COMMENT

Debbie Newberry asked how the proposed language would be enforced without having to conduct bed checks and stated that putting a limit on occupancy is just one piece of the package that should be added to a limit on the size of a structure.

Andy Ward stated that he favored this proposed ZTA over the other two and that it would be enforceable. Density is paramount and a maximum occupancy of 14 is a good number for it.

Chairperson Williams closed Public Comment.

Chairperson Williams asked how septic capacity is approved. Wes Haskett stated that the Dare County Environmental Health Department reviews and approves all septic systems in the Town. The permit is issued with a maximum number of occupants and it is required upon submittal of a building permit application to the Town. A building permit would not be issued if the septic permit allowed an occupancy that exceeded 14 occupants.

Gray Berryman stated that he thinks the proposed ZTA is the best proposal out of the three. It is consistent with what has previously been enforced and should hold up in court. Parking requirements can also be adjusted to help limit occupancy and the size of structures (see attached email addressing proposed parking amendments) and the current width of parking spaces could be increased from 8' x 18' to 10' x 18'.

The Board discussed the proposed parking amendments to the proposed ZTA and Chairperson Williams called for those in favor of increasing the parking width requirement. The majority (3-2) favored the amendment and it was noted that nonconformities would be created.

#### C. ZTA-16-03: Large Structures With Maximum Square Footage

Chairperson Williams introduced the application and called on Wes Haskett to present the Staff Report (see attached). In addition to the Staff Report, he reported that according to the most recent data from the Dare County Tax Department, the average single-family dwelling in the Town is 2,443 sq. ft. and there are currently 14 single-family dwellings that are greater than 6,000 sq. ft. There are also currently 149 single-family dwellings between 4,000 sq. ft. and 6,000 sq. ft.

#### PUBLIC COMMENT

Michael York stated that he is a contractor that has been hired by a property owner in the Town and that he has been planning a new home based on the current requirements that is over 6,000 sq. ft. that will be a second home for the owner and not a rental that will benefit the community. A 14 to 16 bedroom house could be built with 6,000 sq. ft.

Andy Ward stated that a good source, David Owens with the UNC School of Government, assured him that septic capacity can be used to restrict the size of homes. He asked the Board not to approve anything that strikes our current maximum septic capacity of 14 occupants. Limiting homes to 6,000 sq. ft. is too restrictive and unfair to those who own larger lots.

David Sanders stated that putting a maximum limit on single-family dwellings will create nonconformities. Should one of the existing homes over 6,000 sq. ft. be destroyed by a fire, the owners may or may not be able to rebuild it as it was prior to its destruction.

Mark Martin stated that he was against the maximum limit. Many nonconformities would be created and establishing a limit does not address the problems created by event houses.

Debbie Newberry stated that she was in favor of a limit on square footage and that 6,000 sq. ft. is reasonable. If a nonconforming home is destroyed, it should be able to be rebuilt as it was. It's good to consider the size of a home but it's also good to consider occupancy.

Chairperson Williams closed Public Comment.

David Neal stated that the nonconformity issue is an important issue. We shouldn't restrict how large a home can be especially when considering lot coverage and parking requirements. Limiting the septic system and occupancy is the strong card.

The Board agreed that the proposed ZTA wasn't the best option of the three. Joe McGraw motioned to recommend disapproval of the proposed ZTA to the Town Council. Gray Berryman seconded the motion. The motion passed unanimously.

**D. ZTA-16-04: Large Structures With Graduated Maximum Square Footage**

Chairperson Williams introduced the application and called on Wes Haskett to present the Staff Report (see attached with included number of lots per category of lot sizes).

**PUBLIC COMMENT**

Mark Martin stated that Nags Head has square footage restrictions but they also allow event houses that are lined up one after another. Restrictions should be placed on event houses.

Tommy Karole stated that he would be interested in feedback on the next proposal and would hate to see huge houses on post stamp lots. Events can be held in any sized house

Andy Ward stated that he was not in favor of the proposed ZTA. The square footage of a lot needs to be what you can build on and westward of the CAMA First Line of Stable Natural Vegetation needs to be considered. A lot of bedrooms could be included in an 8,600 sq. ft. house. A family member has a 7,700 sq. ft. house on Ocean Blvd. that only has four bedrooms but he pays more in taxes each year than the average person.

Michael York stated that he was opposed to the proposed ZTA. An 8,600 sq. ft. house could have up to 18 or 20 bedrooms. He stated that he understood what the Town is trying to do but limiting the septic capacity to 14 occupants is the best option because it limits the number of bedrooms to 7.

Chairperson Williams closed Public Comment.

The Board agreed that the proposed ZTA wasn't the best option of the three. David Neal motioned to recommend disapproval of the proposed ZTA to the Town Council. Joe McGraw seconded the motion. The motion passed unanimously.

The Board discussed the definition of event facilities in ZTA-16-02 v002 and agreed to amend the definition so that it only applies to advertised pre-planned events.

Jay Russell motioned to recommend approval of ZTA-16-02 v002 as amended to the Town Council. Gray Berryman seconded the motion. The motion passed unanimously.

**VIII. Public Comment**  
None.

**IX. PLANNING BOARD MEMBER COMMENTS:**  
Chairperson Williams stated that the current parking requirements in general need to be revised.

**X. ANNOUNCEMENTS:**

Chairperson Williams announced that the next scheduled Planning Board meeting date is February 17, 2016 at 5:30 p.m. There are currently no applications to review.

**XI. ADJOURNMENT:**

David Neal motioned to adjourn. Gray Berryman seconded the motion. The motion passed unanimously and the meeting adjourned at 5:32 p.m.

ATTEST:

  
\_\_\_\_\_  
Sam Williams, Chairperson

RESPECTFULLY SUBMITTED:

  
\_\_\_\_\_  
Wes Haskett, Town Planner

## STAFF REPORT

**To:** Southern Shores Planning Board  
**Date:** January 14, 2016  
**Case:** ZTA-16-01  
**Prepared By:** Wes Haskett, Town Planner/Code Enforcement Officer

### GENERAL INFORMATION

**Applicant:** Southern Shores Crossing LLC  
P.O. Box 15  
Kitty Hawk, NC 27949

**Applicant's Representative:** Michael W. Strader, Jr., PE, Quible & Associates, P.C.  
P.O. Drawer 870  
Kitty Hawk, NC 27949

**Requested Action:** Amendment of the Town Zoning Ordinance by amending Section 36-163, Off-street Parking Requirements.

### ANALYSIS

The applicant is proposing a Zoning Text Amendment (ZTA) to amend Section 36-163, Off-street parking requirements. The proposed ZTA includes the following amendments to Section 36-163:

- Reduces the minimum width for commercial parking spaces from 10 feet wide to 9 feet wide;
- Establishes provisions for compact car or short vehicular spaces. Compact parking spaces may be allowed within commercial shopping center parking lots for no greater than 20% of the total number of provided parking spaces. Each compact parking space shall have a minimum length of 15 feet and a minimum width of 8 feet. Drive aisle width shall be a minimum of 22 feet;
- Amends the minimum parking requirements for retail uses not listed in Section 36-207 from one parking space for each 200 sq. ft. of floor area to one parking space for each 250 sq. ft. of floor area; and
- Establishes a reduction of required parking for commercial uses within shopping centers with the use of bicycle racks. The total parking requirement for every 50 parking spaces for the proposed use may be reduced by 1 parking space for each bicycle rack located on the site for up to 3 bicycle racks.

The Town's currently adopted Land Use Plan contains the following Goal and Policy that are applicable to the proposed ZTA:

- **Goal 2:** Protect, enhance and support land uses that are compatible with surrounding land uses and maintain the existing character of Southern Shores.
- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low density (1-3 units per acre) residential community comprised of single family dwellings on large lots (20,000 square

feet or larger) served by a small commercial district (56 acres out of 2,175 acres) for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

**RECOMMENDATION**

Town Staff has determined that the proposed amendment is consistent with the Town's currently adopted Land Use Plan and Town Staff recommends that the Board consider this when making its recommendation to the Town Council. Please note that prior to adopting or rejecting any zoning amendment, the Planning Board shall adopt a statement describing whether its action is consistent with the adopted Town Comprehensive Land Use Plan and explaining why the Planning Board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

**STAFF REPORT**

**To:** Southern Shores Planning Board  
**Date:** January 14, 2016  
**Case:** ZTA-16-02  
**Prepared By:** Wes Haskett, Town Planner/Code Enforcement Officer

**GENERAL INFORMATION**

**Applicant:** Town Staff

**Requested Action:** Amendment of the Town Zoning Ordinance by amending Section 36-57, Definitions of Specific Terms and Words; 36-202, RS-1 Single-family Residential District; Section 36-203, RS-8 Residential District; Section 36-204, RS-10 Residential District; 36-205, R-1 Low Density Residential District; Section 36-207, C General Commercial District; and Section 36-163, Off-street Parking Requirements.

**ANALYSIS**

Town Staff is proposing a Zoning Text Amendment (ZTA) to amend all of the aforementioned Sections of the Town Code to address large homes. As a result of Senate Bill 25 which was passed last year by the North Carolina General Assembly, municipalities are prohibited from restricting the number and type of rooms in single-family and two-family dwellings. The proposed ZTA revises Section 36-57, Definitions of Specific Terms and Words and the Schedule of District Regulations for all of the residential zoning districts and the General Commercial zoning district in an attempt to regulate large homes by limiting the septic capacity in single-family and two-family dwellings to no more than 14 occupants (similar to current requirements). In addition, Town Staff is also proposing to amend the definitions of Event Facility and Family in order to address special events held in residential zoning districts and the commercial zoning district (please note that there are two versions of the proposed ZTA with a different definition of Event Facility). Finally, Town Staff is proposing to amend Section 36-163, Off-street parking requirements in order to be in compliance with Senate Bill 25 by requiring parking spaces for single-family and two-family dwellings based on septic capacity instead of the number of bedrooms.

The Town's currently adopted Land Use Plan contains the following Goal and Policy that are applicable to the proposed ZTA:

- **Goal 2:** Protect, enhance and support land uses that are compatible with surrounding land uses and maintain the existing character of Southern Shores.
- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low density (1-3 units per acre) residential community comprised of single family dwellings on large lots (20,000 square feet or larger) served by a small commercial district (56 acres out of 2,175 acres) for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

**RECOMMENDATION**

Town Staff has determined that the proposed amendment is consistent with the Town's currently



adopted Land Use Plan and Town Staff recommends that the Board consider this when making its recommendation to the Town Council. Please note that prior to adopting or rejecting any zoning amendment, the Planning Board shall adopt a statement describing whether its action is consistent with the adopted Town Comprehensive Land Use Plan and explaining why the Planning Board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

## STAFF REPORT

**To:** Southern Shores Planning Board  
**Date:** January 14, 2016  
**Case:** ZTA-16-03  
**Prepared By:** Wes Haskett, Town Planner/Code Enforcement Officer

### GENERAL INFORMATION

**Applicant:** Town Staff

**Requested Action:** Amendment of the Town Zoning Ordinance by amending Section 36-57, Definitions of Specific Terms and Words; 36-202, RS-1 Single-family Residential District; Section 36-203, RS-8 Residential District; Section 36-204, RS-10 Residential District; 36-205, R-1 Low Density Residential District; Section 36-207, C General Commercial District; and Section 36-163, Off-street Parking Requirements.

### ANALYSIS

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The Town's currently adopted Land Use Plan contains the following Goal and Policy that are applicable to the proposed ZTA:

- **Goal 2:** Protect, enhance and support land uses that are compatible with surrounding land uses and maintain the existing character of Southern Shores.
- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low density (1–3 units per acre) residential community comprised of single family dwellings on large lots (20,000 square feet or larger) served by a small commercial district (56 acres out of 2,175 acres) for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

### RECOMMENDATION

Town Staff has determined that the proposed amendment is consistent with the Town's currently adopted Land Use Plan and Town Staff recommends that the Board consider this when making

its recommendation to the Town Council. Please note that prior to adopting or rejecting any zoning amendment, the Planning Board shall adopt a statement describing whether its action is consistent with the adopted Town Comprehensive Land Use Plan and explaining why the Planning Board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

**STAFF REPORT**

**To:** Southern Shores Planning Board  
**Date:** January 14, 2016  
**Case:** ZTA-16-04  
**Prepared By:** Wes Haskett, Town Planner/Code Enforcement Officer

**GENERAL INFORMATION**

**Applicant:** Town Staff

**Requested Action:** Amendment of the Town Zoning Ordinance by amending Section 36-57, Definitions of Specific Terms and Words; 36-202, RS-1 Single-family Residential District; Section 36-203, RS-8 Residential District; Section 36-204, RS-10 Residential District; 36-205, R-1 Low Density Residential District; Section 36-207, C General Commercial District; and Section 36-163, Off-street Parking Requirements.

**ANALYSIS**

Town Staff is proposing a Zoning Text Amendment (ZTA) to amend all of the aforementioned Sections of the Town Code to address large homes. As a result of Senate Bill 25 which was passed last year by the North Carolina General Assembly, municipalities are prohibited from restricting the number and type of rooms in single-family and two-family dwellings. The proposed ZTA revises Section 36-57, Definitions of Specific Terms and Words and the Schedule of District Regulations for all of the residential zoning districts and the General Commercial zoning district in an attempt to regulate large homes by establishing a maximum square footage for single-family dwellings based on lot size as follows:

- Lots with square footage up to 10,000 square feet: single-family dwellings shall not exceed 2,000 sq. ft. of enclosed living space (69 lots);
- Lots with square footage from 10,001 to 20,000 square feet: single-family dwellings shall not exceed 4,000 sq. ft. of enclosed living space (925 lots);
- Lots with square footage from 20,001 to 35,000 square feet: single family dwellings shall not exceed 6,000 sq. ft. of enclosed living space (1,290 lots); and
- Lots with square footage greater than or equal to 35,001: single family dwellings shall not exceed 8,600 sq. ft. of enclosed living space (157 lots).

In addition, Town Staff is also proposing to amend the definitions of Event Facility and Family in order to address special events held in residential zoning districts and the commercial zoning district (please note that there are two versions of the proposed ZTA with a different definition of Event Facility). Finally, Town Staff is proposing to amend Section 36-163, Off-street parking requirements in order to be in compliance with Senate Bill 25 by requiring parking spaces for single-family and two-family dwellings based on septic capacity instead of the number of bedrooms.

The Town's currently adopted Land Use Plan contains the following Goal and Policy that are applicable to the proposed ZTA:

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- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low density (1–3 units per acre) residential community comprised of single family dwellings on large lots (20,000 square feet or larger) served by a small commercial district (56 acres out of 2,175 acres) for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

**RECOMMENDATION**

Town Staff has determined that the proposed amendment is consistent with the Town's currently adopted Land Use Plan and Town Staff recommends that the Board consider this when making its recommendation to the Town Council. Please note that prior to adopting or rejecting any zoning amendment, the Planning Board shall adopt a statement describing whether its action is consistent with the adopted Town Comprehensive Land Use Plan and explaining why the Planning Board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

Hi Everyone—

Here are my thoughts on the ordinances before the meeting. I know that we have much to contemplate and decide, so I figured having this in writing prior to the meeting might be helpful.

1. Commercial Parking: Smaller parking spots are a bad idea. I favor requiring fewer parking spots that are more usable and safe. Making the shopping centers more successful is a priority. I favor helping them be successful by adding flexibility to parking requirements,

--compact parking provision is not a good idea.

--bicycle racks—appears to be reasonable as written and a good idea

--changing parking spot width from 10 feet to 9 feet is a bad idea.

--requirements for retail uses as follows:

**c. Retail and office uses.**

1. Animal hospitals: five spaces per veterinarian, plus one space for each employee, but not less than 16 spaces.
2. Funeral home: one parking space for each four seats in the chapel or parlor.
3. Garden center/nursery: one space for every 500 square feet of outdoor retail display area.
4. General or professional offices, banks (doctors and dentists, see clinic requirements): one parking space for each ~~200~~ square feet of gross floor space, plus one space for each two employees. 300
5. Grocery or appliance stores: one parking space for each ~~500~~ square feet of gross floor area. 600
6. Municipal building: one parking space for each 200 square feet of net office area, plus one space for each two seats in municipal council chambers.
7. Municipal complex: one parking space for each 200 square feet of gross floor space.
8. Restaurant: one parking space for each ~~three~~ customer seats, plus one additional parking space for each employee. 4
9. Retail uses not otherwise listed: one parking space for each ~~200~~ ~~250~~ square feet of floor area. 300
10. Theaters: one parking space for each three seats.
11. Nonprofit entities: a minimum of three parking spaces shall be provided.

**d. Off-street parking and/or storage of certain vehicles prohibited**

This should give centers the flexibility they need to expand their businesses while maintaining parking spots that are functional and safe.

## 2. Large Homes

Limiting square footage will create non conformities and needlessly harm many owners while doing little to limit the oversized rental house which the proposed ordinance intends to prevent.

There are several examples of 10 bedroom "wedding" homes that are less than 5000 s.f. and they rent fabulously. So if we limit the square footage to 5000 s.f., we will still end up with what the town wants to prevent, and we will also have eliminated the possibility for someone to build a 5000+ second home for their own use.

The ZTA which addresses occupancy appears to be the most viable: ZTA 16-02.

One minor change:

- 41 ...  
 42 Event facility means an establishment, structure or property designed, maintained,  
 43 advertised or actually used for the primary purpose of hosting pre-planned events. The term  
 44 "events", includes, but is not limited to, private parties, community uses, weddings,  
 45 rehearsal dinners, corporate meetings, retreats, sporting events, cultural events, musical  
 46 events, celebrations, festivals, fairs, carnivals, circuses or similar events that are planned

One other change that will be beneficial in my opinion will be to update the parking requirements. Parking has a large impact on the site plan, and our current regulations allow much more leeway for a developer to put up a large structure with insufficient parking than other beach towns

Changing the parking size to 10 x 20 is reasonable in my opinion:

residence occupancy limits for wastewater/septic system.

- (ii) An ~~eight-foot-wide~~<sup>10</sup> drive aisle shall be provided, which must be separate from any parking spaces, such that no vehicle will be required to back into the public right-of-way. The following exception shall apply: one required parking space may be located behind each parking space in an under house parking area or enclosed garage, or lined up outside in such a manner that it is located in the drive aisle.
- (iii) Each parking space shall have a minimum length of ~~18~~<sup>20</sup> feet and a minimum width of ~~10~~<sup>10</sup> feet.

I suggest we considering changing the off street requirement to this:

**PART 7. That Sec 36-163. Off-street parking requirements be amended as follows:**

- ...  
 (3) *Minimum parking requirements.* ...  
 a. *Residential and related uses.*

1. ~~Detached~~ ~~Single-family dwelling units, two-family detached~~ dwelling units and townhouses: three parking spaces for each dwelling unit with up to ~~four bedrooms (including all areas used for sleeping), eight (8) persons of septic capacity~~ and one additional space for each ~~additional four (4) two (2) persons of septic capacity two bedrooms (including areas useable for sleeping), or fraction thereof, in excess of four~~ eight (8) person septic capacity up to 12 person septic capacity and 1 additional space for each person of septic capacity over 12.

This would result in the following:

| Septic capacity | # of required parking spots        |
|-----------------|------------------------------------|
| Up to 8 persons | 3 Stays the same                   |
| 10 persons      | 4 stays the same                   |
| 12              | 5 increases by 1 from current regs |
| 14              | 7 increases by 2 from current regs |

This will match up our parking requirements better with the number of cars arriving at larger homes.

Thanks for reading—see you tomorrow!

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Gray Berryman